

**HUNTINGTON BEACH
OFFICE OF THE ZONING ADMINISTRATOR
EXECUTIVE SUMMARY**

TO: Zoning Administrator
FROM: Tess Nguyen, Associate Planner
DATE: August 5, 2009
SUBJECT: **CONDITIONAL USE PERMIT NO. 2009-011 (BOMBURGER RESTAURANT)**
LOCATION: 200 Main Street, #114, 92648 (east side of Main Street, south of Olive Avenue)

Applicant: Jeff Bergsma, Architect, 221 Main Street #S, Huntington Beach, CA 92648

Property Owner: Robert Koury, 200 Main Street #206, Huntington Beach, CA 92648

Request: To permit the establishment of a 1,489 sq. ft. take-out restaurant.

Environmental Status: This request is covered by Categorical Exemption, Section 15301, Class 1, California Environmental Quality Act.

Zone: SP5 – CZ (Downtown Specific Plan – Coastal Zone)

General Plan: MV (Mixed Use Vertical)

Existing Use: Existing retail space

RECOMMENDATION: Staff recommends approval of the proposed project based upon the following findings:

SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15301 of the CEQA Guidelines, because the project consists of minor alterations to a commercial suite involving no expansion to the existing building.

SUGGESTED FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2009-011:

1. Conditional Use Permit No. 2009-011 for the establishment of a 1,489 sq. ft. take-out restaurant within an existing commercial development will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed take-out restaurant will not generate additional noise, traffic, or other impacts detrimental to surrounding properties. The change of use from a retail space to a take-out restaurant space will not result in an

intensification of use or create a parking impact. The site provides the necessary parking to accommodate the proposed take-out restaurant based on the shared parking concept of the Downtown Parking Master Plan.

2. The conditional use permit will be compatible with surrounding uses because it is a commercial use located in an existing commercial development with other commercial uses with similar characteristics.
3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance and any specific condition required for the proposed use in the district in which it would be located. The take-out restaurant will be located within an existing commercial center, which complies with parking in the Downtown Parking Master Plan and parking will be accommodated by the parking supply in the attached parking structure. Since the parking requirement for a retail use and for a take-out restaurant is the same, there would be no impact on the parking requirement for the proposed change in use. There is no physical expansion of the approved development proposed as part of the request.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of Mixed Use Vertical on the subject property including the following policies and objectives identified in the General Plan:

A. Land Use Element

Policy LU 7.1.1 Accommodate existing uses and new development in accordance with the Land Use and Density Schedules.

Objective LU 7.1 Accommodate the development of a balance of land uses that (a) provides for the housing, commercial, employment, cultural, entertainment, and recreation needs of existing and future residents, (b) provides employment opportunities for residents of the City and surrounding subregion, (c) captures visitor and tourist activity, and (d) provides open space and aesthetic relief from urban development.

Goal LU 11 Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

The proposed use will provide a new visitor-serving commercial venue within the Downtown that is consistent with the Land Use Density Schedules for the Downtown and is compatible with surrounding mixed-use development.

B. Coastal Element

Policy C 3.2.4 Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including but not limited to, shops, restaurants, hotels and motels, and day spas.

The proposed use will promote the commercial viability of downtown Huntington Beach and will expand the available visitor-serving commercial uses within the Coastal Zone.

SUGGESTED CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2009-011:

1. The site plan and floor plans received and dated June 22, 2009 shall be the conceptually approved design.
2. The use shall comply with the following:
 - a. The hours of operation for the restaurant shall be between 8:00 AM and 2:00 AM, seven days a week. **(PD)**
 - b. A maximum of 12 seats shall be permitted in the dining area.
3. Live entertainment, alcoholic beverage sales, and outdoor dining with alcohol sales shall not be permitted unless a conditional use permit for this specific use is reviewed and approved.
4. Incorporating sustainable or “green” building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green’s Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/index.cfm?fuseaction=guidelines>).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney’s fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.